

ESTTA Tracking number: **ESTTA610939**

Filing date: **06/19/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204897
Party	Plaintiff John G. Marino
Correspondence Address	SCOTT M BEHREN ESQ BEHREN 2893 EXECUTIVE PARK DRIVE, SUITE 203 WESTON, FL 33331 UNITED STATES scott@behrenlaw.com
Submission	Other Motions/Papers
Filer's Name	Scott M. Behren
Filer's e-mail	scott.behren@gmail.com, scott@behrenlaw.com
Signature	/Scott M. Behren/
Date	06/19/2014
Attachments	Marino SMB Signed Affidavit.pdf(98521 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the matter of trademark application Serial No. 85411955
For the mark LAGUNA LAKES Published in the Official Gazette on
February 28, 2012**

Consolidated Opposition No: 91204897

91204941

JOHN GERARD MARINO

v.

LAGUNA LAKES COMMUNITY ASSOCIATION, INC.

**AFFIDAVIT OF SCOTT M. BEHREN
IN SUPPORT OF RESPONSE TO MOTION TO DISMISS**

THE STATE OF FLORIDA

COUNTY OF BLONARD

I appeared and swore and attest as follows:

1. My name is Scott M. Behren, Esq. and I have personal knowledge of the facts alleged herein.

2. I have been actively prosecuting John Gerard Marino's ("Marino") TTAB Complaints against the Laguna Lakes Community Association, Inc. ("LLCA") over the above-styled trademarks Laguna Lakes' trademark applications.

3. Our TTAB Opposition to Serial No. 85411955 is primarily based upon my prior use of the mark and the geographic descriptiveness of the mark.

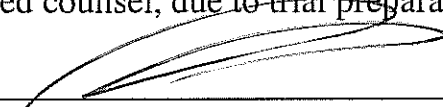
4. Marino's testimony period was originally scheduled to end May 30, 2014. During Marino's testimony period, Marino intended to simply submit his own Declaration and to file a Notice of Reliance including deposition transcripts of previous depositions taken of the LLCA Board. Counsel for the LLCA took the deposition of Marino and was present for the depositions of the LLCA Board Members. At no time did Marino plan on calling, as part of his case, any surprise witnesses or exhibits.

4. During Marino's testimony period, and specifically during the week of May 19, 2014, the undersigned counsel was special set to start a jury trial in the case of *David Hopkins v. GelTech Solutions, Inc. et. al.*, Palm Beach Circuit Court Case No: 2008-CA-017955. In the weeks leading up to this special set trial, the undersigned was extremely busy, preparing for that special set trial. As a result of this trial preparation, the undersigned counsel did not actively work to get Marino's declaration submitted to get the discovery depositions of the LLCA Board submitted to the TTAB during Marino's testimony period.

5. On May 30, 2014, in order to allow additional time to prepare Marino's Declaration, the undersigned counsel requested an additional seven days to file the subject Declaration and offered to give LLCA counsel the same extension. The undersigned counsel also sought a similar extension of time to file a Notice of Reliance upon certain documents.

6. LLCA counsel opposed such extension. Since that time Marino's

Declaration and Notice of Reliance have been prepared and finalized for immediate filing with this Tribunal. The failure to get together the subject Declaration and Notice of Reliance prior to May 30, 2014, was the fault of the undersigned counsel, due to trial preparation, and was no fault of Opposer.



Scott M. Behren

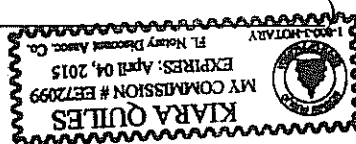
State of Florida
County of Broward

SWORN to and SUBSCRIBED before me, the undersigned authority, on the 19th day of June, 2014 year, by

John Gerard Marino who is personally known to me/ or presented the following identification _____

Notary Public, State of Florida





I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by electronic mail on this 17 day of June 2014 to: Donna M. Flammang, Esq., Brennan Manna & Diamond, P.L., 3301 Bonita Beach Road, Suite 100, Bonita Springs, FL 34134.

BEHREN LAW FIRM
2893 Executive Park Drive Suite 110
Weston, FL 33331
(954) 636-3802
scott@behrenlaw.com
By: / Scott M. Behren/
Scott M. Behren
Fla. Bar 987786